

STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY  
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:	)	Docket HWCA SRPD01/02NAEO-4261
	)	
Metal Surfaces, Inc.	)	CONSENT ORDER
6060 Shull Street	)	
Bell Gardens, California 90201	)	
ID No. (CAD008358145)	)	Health and Safety Code
	)	Section 25187
Respondent.	)	

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The California Department of Toxic Substances Control (Department) and Metal Surfaces, Inc. (Respondent) enter into this Consent Order and agree as follows:

1.1. Facility. Respondent generates and treats hazardous waste at the following site: 6060 Shull Street, Bell Gardens, California 90201 (Facility).

1.2. Permit/Interim Status. The Department alleges and Respondent denies that Respondent currently generates, or has generated in the past, the following substances that are regulated as hazardous wastes under the Hazardous Waste Control Law: hazardous wastewater containing dissolved metals (silver, chromium, cadmium, lead, and others) from electroplating operations; cyanide-containing hazardous waste residues from electroplating operations; hazardous wastewater treatment sludge; hazardous halogenated solvent wastes; hazardous oxygenated solvent wastes; reactive cyanide wastes; hazardous inorganic solid wastes; hazardous spent stripping and cleaning bath

solutions, including those where cyanides are used in the process; and hazardous waste oil.

The Department alleges and Respondent denies the following: Respondent operates eight different hazardous waste treatment units under Permit By Rule. (Cal. Code Regs., tit. 22, div. 4.5, ch. 45.) Respondent operates seven of these units under authorization the Los Angeles County Fire Department Health Hazardous Materials Division (the local Certified Unified Program Agency, or "CUPA"). These treatment units include the following: a wastewater treatment unit used to remove metals and neutralize wastewater prior to discharge; a chromium waste treatment unit used to reduce hexavalent chromium to trivalent chromium; a neutralization unit for acid and alkaline wastes; a contaminated container treatment unit used to wash and cut up empty containers formerly holding hazardous materials and hazardous waste; a deionizer unit used to recover precious metals and nickel from rinse water; an electroless nickel waste treatment unit used to recover nickel from electroless nickel plating solution; and a hazardous waste spent filter and rag treatment unit used to rinse electroplating solution and electroplating bath residues from electroplating processes where cyanides are used 'in the process. The Department alleges and Respondent denies that Respondent never obtained the required authorization from the CUPA to operate the eighth treatment unit used to recover silver from spent nitric acid silver stripping solution.

1.3. Jurisdiction. Section 25187 of the Health and Safety Code authorizes the Department to order action necessary

to correct violations and assess a penalty when the Department determines that any person has violated specified provisions of the Health and Safety Code or any permit, rule, regulation, standard, or requirement issued or adopted pursuant thereto.

2. The Department inspected the Facility on September 11 and November 6, 2001.

3. The Department alleges and Respondent denies the following violations:

3.1. As of September 11, 2001, Respondent had stored the following hazardous wastes on site for more than 90 days, in violation of Health and Safety Code section 25201, subdivision (a):

a. Two 55-gallon drums of activated charcoal hazardous waste labeled with an accumulation start date of "3/19/01."

b. Three 55-gallon drums holding methyl ethyl ketone hazardous waste labeled with accumulation start dates of "3/17/01," "3/24/01," and "3/26/01."

c. One 100-gallon container of hazardous waste charcoal labeled with an accumulation start date of "2/19/01."

d. Four contaminated empty 55-gallon containers that previously held hazardous materials or waste. Pursuant to California Code of Regulations, title 22, section 66261.7, subdivisions (e) and (f), an empty contaminated container is exempt from regulation under California Code of Regulations, title 22, division 4.5, and chapter 6.5 of division 20 of the Health and Safety Code so long as the container is labeled with

the date on which it became empty, and its scrap value is reclaimed within one year of when it became empty. Respondent failed to label two empty 55-gallon containers with the date on which they became empty, and failed to reclaim the scrap value of two other 55-gallon empty containers (labeled "Empty, 12/14/99") within 1 year of when they became empty.

3.2. On and/or prior to September 11, 2001, Respondent conducted the following hazardous waste treatment:

a. Treated cyanide-containing hazardous waste residues in spent filters from plating operations where cyanides are used in the process without first obtaining the proper treatment permit or grant of authorization as is required by Health and Safety Code section 25201.

b. Treated hazardous waste silver-cyanide plating bath solution without first obtaining the proper treatment permit or grant of authorization as is required by Health and Safety Code section 25201.

c. Treated hazardous waste aqueous nitric acid silver strip to recover silver without first obtaining the proper treatment permit or grant of authorization as is required by Health and Safety Code section 25201.

3.3. On and/or prior to September 11, 2001, Respondent failed to label fifty-one (51) containers holding hazardous waste with the composition and physical state of the waste, statements which call attention to the particular hazardous properties of the waste, and the name and address of the person producing the

waste, as is required by California Code of Regulations, title 22, section 66262.34, subdivision (f).

3.4. On and/or prior to September 11, 2001, Respondent failed to label thirty-five (35) containers holding hazardous waste with the date on which Respondent began accumulating waste in the containers, as is required by California Code of Regulations, title 22, section 66262.34, subdivision (f)(1) and (f)(2).

3.5. On and/or prior to September 11, 2001, Respondent stored two containers holding a combined total of approximately 700 gallons of hazardous waste acid nearby twenty-one (21) 55-gallon containers holding cyanide-bearing waste and failed to separate the incompatible acid and cyanide wastes by means of a dike, berm, wall, or other mechanism capable of preventing mixing of the waste in the event of a spill, in violation of California Code of Regulations, title 22, section 66265.177, subdivision (c).

3.6. On and/or prior to September 11, 2001, Respondent engaged in the following activities:

a. Stored hazardous waste "regenerate" acid waste in an unsafe manner, in that it placed the regenerate waste storage tank on top of four 55-gallon hazardous waste containers in order to lift the tank above grade, in violation of California Code of Regulations, title 22, section 66265.31.

b. Failed to clean up spilled hazardous waste wastewater treatment sludge that had spilled on the ground, in

violation of California Code of Regulations, title **22**, section **66265.31**.

**3.7.** On and/or prior to September 11, **2001**, Respondent failed to maintain waste analysis records for all hazardous wastes treated onsite, in violation of California Code of Regulations, title **22**, section **66265.13**, subdivision (a), as required by California Code of Regulations, title **22**, section **67450.3**, subdivision (c)(**9**)(**B**).

**3.8.** On and/or prior to September 11, **2001**, Respondent failed to maintain a written waste analysis plan for all hazardous wastes treated onsite, in violation of California Code of Regulations, title **22**, section **66265.13**, subdivision (b), as required by California Code of Regulations, title **22**, section **67450.3**, subdivision (c)(**9**)(**B**).

**3.9.** On or about May **9**, **2000**, Respondent submitted Hazardous Waste Treatment Notification forms to the local CUPA. In the notification forms Respondent certified that treatment unit **08** is a wastewater treatment unit used to treat spent filters. Treatment unit **08** is not a wastewater treatment unit used to treat wastewater, but is instead used by Respondent to treat spent filters contaminated with extremely hazardous cyanide-bearing plating bath residues. These filters are listed hazardous wastes with waste code **F008**. This information was not disclosed in the notifications, in violation of Health and Safety Code section **25189**, subdivision (a)

**3.10.** On or about February **12**, **2001**, Respondent discharged treated waste from a Permit By Rule unit to the

Publicly Owned Treatment Works and exceeded the discharge limits for lead, nickel, and total metals, in violation of California Code of Regulations, title 22, section 67450.3, subdivisions (c)(5) (A) and (c)(5) (B).

3.11. On and/or prior to September 11, 2001, Respondent failed to label a metal tray comprising part of a treatment unit (identificationnumber 08) with a unit identification number and the name of the person that owns or operates the treatment unit, in violation of California Code of Regulations, title 22, section 67450.3, subdivision (c)(7).

3.12. On and/or prior to September 11, 2001, Respondent failed to keep fifteen (15) containers holding hazardous waste closed during storage while waste was not being added or removed, as is required by California Code of Regulations, title 22, section 66265.173, subdivision (a).

4. A dispute exists regarding the alleged violations.

5. The parties wish to avoid the expense of litigation and to ensure prompt compliance.

6. Jurisdiction exists pursuant to Health and Safety Code section 25187.

7. Respondent waives any right to a hearing in this matter.

8. This Consent Order shall constitute full settlement of the violations alleged above, but does not limit the Department from taking appropriate enforcement action concerning other violations. Furthermore, this Consent Order shall not prevent the Department from introducing, in any later enforcement

action or other proceeding, evidence of facts supporting the existence of the violations alleged above.

9. By entering into this Consent Order, Respondent does not admit any of the violations alleged above. This Consent Order is not, and shall not be portrayed as, an admission of liability. This Consent Order shall not be used as and shall be inadmissible as evidence of liability in any way.

10. Within 30 days of the effective date of this Consent Order, the Department will request dismissal, without prejudice, of the complaint it filed against Respondent in Los Angeles County Superior Court on January 2, 2003 (Case No. BC288090).

#### SCHEDULE FOR COMPLIANCE

10. Respondent has demonstrated that the violations stated in Sections 3.1 through 3.12 above have been corrected. No further corrective action or submittal is required.

#### PAYMENTS

11. Respondent agrees to pay to the Department a total of \$105,000, with interest, of which \$98,872 is a penalty, and \$6,128 is reimbursement of the Department's costs. Payment shall be made in accordance with paragraphs 11.1 through 11.4, below.

11.1 Respondent agrees to send at least four representatives of Respondent whose duties involve hazardous waste management to complete Modules I through V of the California Compliance School (CCS). At the time that Respondent submits certificates of satisfactory completion, issued by CCS, of Modules I through V for the four or more representatives of



Respondent, the Department will credit Respondent \$5,000 toward the **\$98,872** total due as a penalty. Respondent must submit the certificates of satisfactory completion to the Department within **185** days of the effective date of this Consent Order in order to receive the \$5,000 credit toward the penalty amount. Copies of the certificates of satisfactory completion shall be sent to:

Mr. Charles A. McLaughlin, Branch Chief  
State Regulatory Programs Division  
Department of Toxic Substances Control  
**8800** Cal Center Drive  
Sacramento, California **95826-3200**

Mr. Jerry Munoz, Manager of Inspections  
County of Los Angeles Fire Department  
Health Hazardous Materials Division  
Central Inspection Station  
**5825** Rickenbacker Road  
Commerce, California **90040**

11.2 If Respondent fails to submit the CCS certificates of satisfactory completion as required, the additional penalty of \$5,000 is due and payable within 30 days from the time that the 185-day period expires. The 185-day period may be extended by a DTSC Branch Chief upon a written request from the Respondent demonstrating good cause.

11.3 Within 30 days of the effective date of this Consent Order, Respondent shall pay **\$12,500** to the Department, of which **\$6,372** is a penalty, and **\$6,128** is reimbursement of the Department's costs. Thereafter, Respondent shall make the following quarterly penalty payments, which include interest',

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The interest rate is based on the current rate of interest of the Controller of the State of California's "Surplus Money Investment Fund Accumulation Yield **Rate**," which is 2.468%.

such that the Department receives the payment on or before the specified dates:

June 30, 2003	\$13,044.31
September 30, 2003	\$12,966.55
December 31, 2003	\$12,888.79
March 31, 2004	\$12,807.65
June 30, 2004	\$12,733.28
September 30, 2004	\$12,655.52
December 31, 2004	\$12,577.76

Respondent's checks shall be made payable to the Department of Toxic Substances Control, and shall identify the Respondent and Docket Number, as shown in the heading of this case. All checks shall be delivered, together with the attached Payment Voucher, to:

Department of Toxic Substances Control  
Accounting Office  
1001 I Street, 21st floor  
P. O. Box 806  
Sacramento, California 95812-0806

A photocopy of each check shall be sent to:

Mr. Charles A. McLaughlin, Branch Chief  
State Regulatory Programs Division  
Department of Toxic Substances Control  
8800 Cal Center Drive  
Sacramento, California 95826-3200

**11.4** In the event that Respondent fails to make timely payments as required in section **11.3**, the full amount of \$105,000, minus any payments already made to the Department pursuant to this Consent Order, shall be immediately due and payable to the Department. In such case, Respondent agrees to pay interest on any amounts thereafter paid or collected at the

rate established pursuant to Health and Safety Code section 25360.1 and to pay all costs incurred by the Department in pursuing collection, including attorneys' fees.

#### OTHER PROVISIONS

12.1. Additional Enforcement Actions: By agreeing to this Consent Order, the Department does not waive the right to take further enforcement actions, except to the extent provided in this Consent Order.

12.2. Penalties for Noncompliance: Failure to comply with the terms of this Consent Order may subject Respondent to civil penalties and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

12.3. Parties Bound: This Consent Order shall apply to and be binding upon Respondent and its officers, directors, agents, receivers, trustees, employees, contractors, consultants, successors, and assignees, including but not limited to individuals and partners, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Consent Order.

12.4. Effective Date: The effective date of this Consent Order is the date it is signed by the Department.

12.5. Intesration: This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this agreement.

12.6. Compliance with Waste Discharge Requirements:

Respondent shall comply with all applicable waste discharge requirements issued by the State Water Resources Control Board or a California regional water quality control board.

Dated: 4-1-03

Willard R. Bell III

Signature of Respondent's  
Representative

Willard R. Bell III

Typed or Printed Name and Title of  
Respondent's Representative

Dated: 8 APR 03

Charles A. McLaughlin

Charles A. McLaughlin  
Branch Chief  
State Regulatory Programs Division  
Department of Toxic Substances  
Control